

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

CRAIG AGNEW #1029098

§

v.

§

CIVIL ACTION NO. 5:07cv152

TELFORD UNIT COMMITTEE

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Craig Agnew, proceeding *pro se*, filed this lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Agnew's lawsuit revolves around the loss of personal property, including a fan, a radio, and a four-plug outlet, during his confinement in TDCJ-CID. After review of the complaint and the amended complaint, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed because the loss of personal property by prison officials does not set forth a constitutional claim so long as adequate state post-deprivation remedies exist. Because such remedies exist in the form of the TDCJ administrative procedures as well as the state courts, the Magistrate Judge concluded that Agnew's lawsuit lacked an arguable basis in federal law.

A copy of the Magistrate Judge's Report was sent to Agnew at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal

conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous as to its refiling in federal court, but without prejudice as to any claims which Agnew may assert through the administrative processes of the Texas prison system or the courts of the State of Texas. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 24th day of March, 2008.

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM

UNITED STATES DISTRICT JUDGE